* **HIGH COURT OF DELHI : NEW DELHI**

Date of decision: 23rd August, 2007

\+ **WP(C) No.5742/2007**

% Raju .....Petitioner
Through: Mr. B.P. Sharma, Advocate.

versus

Union of India and Anr. ..... Respondent
Through: Mr. J.P.Sharma, Advocate

CORAM:

HON'BLE MR. JUSTIC A.K.SIKRI
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

A.K.SIKRI, J (Oral)

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1. The petitioner was engaged on casual basis by the respondent herein in the year 1987. When the petitioner was working in this capacity, criminal proceedings under Section 420, 468, 471 and 511 were instituted against him sometime in the year 1993. Since he was working on casual basis, in view of the

aforesaid criminal proceedings he was disengaged on 17.3.1993. Challenging this order, petitioner preferred the OA No. 692/1993, which was, however, dismissed by the Tribunal on the ground that there was no legal requirement to serve a legal notice of termination to the casual worker before his services are dispensed with.

2. In the criminal proceedings, petitioner was acquitted by the Court of Metropolitan Magistrate vide order dated 1.4.2005. Armed with this order, the petitioner approached the authorities requesting for reinstatement. As his request was not acceded to, he approached the Tribunal again. Tribunal has however dismissed his application vide orders dated 10th May, 2006, following the dicta of the Constitution Bench judgment of the Supreme Court laid down in ***State of Karnataka and Ors. vs. Uma Devi and Ors.*** 2006 (4) scale 197 wherein, the Supreme Court has now authoritatively pronounced that any appointment on casual basis de hors the Rules is illegal which itself is a violation of Articles 14 and 16 of the Constitution and no regularization could be conferred on such employees.

3. Challenging this order, the petitioner has filed the present petition. Learned counsel for the petitioner submits that other employees who were working on casual basis at that time

were ordered to be regularized and it is only because of the aforesaid criminal proceedings, the petitioner was disengaged. He further submitted that before prosecuting the petitioner, sanction of the competent authority was obtained and order dated 22.12.1994 is produced in this Court. On this basis, plea of the learned counsel for the petitioner is that petitioner was treated as regular employee and therefore he has right to be reinstated in service once he is acquitted in the criminal case which is the basis of his disengagement.

4. This submission of the petitioner is without any merit. As pointed out above after the disengagement of the petitioner he had earlier preferred an application under Section 19 of the Administrative Tribunal Act in the year, 1993 wherein it was contended that services of the petitioner could not be terminated without serving proper notice. This contention was rejected firstly on the ground that since the petitioner is a casual worker no such notice is required to be served. Thus, in the year 1993 when the engagement of the petitioner was dispensed with he was treated as a casual employee and on this premise only, the Tribunal has dismissed his petition. The petitioner has now, at this stage taken the plea that he had become regular employee. This is contrary to the basis of the earlier judgment

of the Tribunal which the petitioner had accepted, and which has become final.

5. Admittedly, the petitioner had not undergone any selection process before his engagement which was of casual nature only. If, because of certain orders passed by the Tribunal the colleagues of the petitioner were regularized, those orders cannot enure to the benefit of the petitioner, as he had been disengaged. As we deal with the matter today, we are governed by the law laid down by the Supreme Court in the case of **Uma Devi** (supra). We do not, therefore, have any reason to interfere with the judgment of the Tribunal. Dismissed.

A.K.SIKRI, J.

VIPIN SANGHI, J.

August 23, 2007
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